

AN ACT

FOR THE

SUPPRESSION OF INTEMPERANCE,

AND TO

AMEND CHAPTER XXX, OF THE REVISED STATUTES.

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AN ACT

FOR THE SUPPRESSION OF INTEMPERANCE, AND TO AMEND CHAPTER XXX
OF THE REVISED STATUTES.

SECTION 1. *Be it enacted by the people of the state of Illinois, represented in the General Assembly,* That no person shall, at any time or place, within this state, manufacture or sell, or shall, at any store, grocery, tavern or place of trade, entertainment or public resort, or railroad or canal, or in any of the appurtenances or dependencies of any such place, give away, contrary to the provisions of this act, by himself, his servant or agent, directly or indirectly, any spiritous or intoxicating liquor, or any mixed liquor, of which a part is spiritous or intoxicating, except as hereinafter provided; and ale, porter, lager beer, cider, and all wines, are included among intoxicating liquors within the meaning of this act.

Sale of intoxicating liquors prohibited.

§ 2. Nothing contained in this act shall be construed to forbid the making of cider from apples, or wine from grapes, currants or other fruit grown or gathered by the manufacturer, in this state, or the selling of such cider or wine, in quantities not less than one gallon, if made in this state, by the maker thereof; nor shall anything herein prohibit the brewing of ale, porter or lager beer, if manufactured in this state; and exported and sold in not less quantities than thirty gallons, without the limits of the same; and the person or persons manufacturing or selling such ale, porter or lager beer shall have first given bond as required by the third section of this act of persons engaged in the manufacture of alcohol or high wines; and any other manufacture or sale of such wine, cider, ale, porter or lager beer shall be deemed an unlawful [sale] within the meaning of this act.

Not to extend to cider and wine manufactured in the state.

§ 3. Nothing in this act shall be construed to forbid the sale, by the importer thereof, of foreign spiritous or intoxicating liquors, imported under the authority of the laws of the United States regarding the importation of such liquor, and in accordance with said laws: *Provided, that*

Not to extend to imported liquors when not sold in less quantities than 30 gallons

Proviso.

the said liquor, at the time of sale by said importer, remains in the original casks or packages in which it was by him imported, and in quantities in which the laws of the United States require such liquor to be imported, and is sold by him in said casks or packages, and in said quantities only; and the custom house certificate of importation, and proof of marks on the casks or packages in which such liquor is contained, corresponding thereto, shall not be received as evidence that the liquor contained in such packages is that actually imported therein: *Provided*, that nothing in this act contained shall be construed to prevent the manufacture of alcohol and high wines, if not adapted to use as a beverage, provided the same be exported out of this state in quantities not less than thirty gallons. No license shall be required to manufacture such liquor for exportation and sale as aforesaid, but such manufacturer shall be required to give bond, as provided in case of other manufacturers, so far as applicable.

Proviso.

License when and by whom granted to manufacturers.

§ 4. The county court of any county, or in counties having township organization, the board of supervisors may, by certificates signed by two-thirds of the judges, or by two-thirds of the boards of supervisors, give all persons who shall, in writing, apply to them therefor, authority to manufacture, at such places only within said county as said court or board of supervisors shall, in said certificate, designate, spiritous or intoxicating liquors, and to sell the same in those places only, to duly authorized agents of cities, towns and counties in this state; but such authority shall not continue, in any case, longer than one year from the date of the certificate in that case given, and may be at any time revoked by said court or board of supervisors; and no person shall receive such a certificate, or exercise such authority, until he shall have executed and delivered to the treasurer of said county a bond, with at least two good and sufficient sureties, in a sum not less than one thousand dollars nor more than ten thousand dollars, as said county court or board of supervisors shall require, conditioned that he will not, at any time during the year next following the date of his said certificate, infringe in any manner or degree any provision of this or any law of this state touching the manufacture or sale of spiritous or intoxicating liquors. If any person so authorized and bound shall break the condition of such bond, said bond shall forthwith be put in suit; his said certificate and authority shall instantly become void, and he shall not thereafter be permitted to manufacture or sell any spiritous or intoxicating liquor, and shall moreover be subject to all the penalties herein provided against the manufacture, sale or giving away spiritous or intoxicating liquors contrary to the provisions of this act. The county court or board of su-

Licensed persons to give bond.

pervisors shall not have the power to grant such authority to manufacture liquor for the purpose aforesaid, within the limits of any incorporated town or city in this state; but such authority may be granted and certificates issued by the common council of said city or the president and trustees of said town, in the manner and upon the conditions above specified as applicable to the county court or board of supervisors, and the bond required shall be made payable to the treasurer of said town or city.

§ 5. The mayor and aldermen of any city may, within such city, the president and trustees of any incorporated town may, within such town, the board of supervisors, in counties having township organization, may, within townships not within a city or incorporated town, and in counties not having township organization, the county court may, in any precinct without the limits of any incorporated town or city, as hereinafter provided, at any meeting of their board, court or body, duly convened, upon reasonable notice to every member thereof, appoint some suitable person or persons as agent or agents of said city, town or county, for the purchase of spiritous and intoxicating liquors, and for the sale thereof within such city, town, township or precinct, for sacramental, medicinal, chemical and mechanical uses only; which such agents may be removed and others appointed in their stead, at pleasure, by the body appointing, or their successors in office, or a majority of them; but no more than one agent shall be appointed in any town, township or precinct containing less than two thousand inhabitants, and not more than two in any incorporated town, city, township or precinct containing less than ten thousand inhabitants, and not more than three such agents in any city, except the city of Chicago, and not more than five such agents shall be in office at the same time in the said city of Chicago. The county court of the counties which have not adopted the township organization, at any regular meeting of the court for the transaction of county business may, in their discretion, upon the petition of a majority of the legal voters of any precinct, not being an incorporated town or city of the state, or in the limits thereof, appoint one such agent for said precinct. No inn-keeper, or keeper of a public eating house, or of a house of public entertainment, shall be appointed such agent. Every such agent shall hold his office for one year, unless sooner removed; he shall sell such liquor only in the one place designated in writing by the body appointing him; he shall, in the purchase and sale of such liquor, conform to such rules and regulations as the said body appointing him shall prescribe, not inconsistent with the provisions of this act; he shall keep an accurate account of all his purchases and all his sales, specifying in such account the kind,

licenses to sell
when and by
whom granted

County court.

Duties of agent.

quantity and price of the liquor bought by him, the date of each purchase made by him, and the name of the person of whom such purchase was made, the kind, quantity and price of liquor sold by him, the date of each sale made by him, the name of the purchaser at every such sale, and the use for which the liquor on every such sale was sold, as stated by the purchaser, and of all forfeited liquor by him received and sold or destroyed; which account shall be at all times open to the inspection of the body appointing such agent, or any member thereof; and when required by said body, or a majority of them, he shall account with them regarding all his dealings as such agent, and exhibit to them all receipts, bills, books, papers of every kind, relating to such dealings, or to his accounts; he shall sell such liquor at not more than twenty-five per cent. advance upon the cost thereof, and shall, when required by the body appointing him, pay over the proceeds of his sales to the treasurer of the body so appointing him, and he shall semi-annually, or oftener, if required by the body so appointing him, make a report, verified by his oath or affirmation, of all his purchases, and the costs thereof, and of his sales, and the proceeds thereof, specifying the number of sales, the respective quantities and kinds sold for each of the purposes of sacramental, medicinal, chemical and mechanical uses, and the quantity and kind and cost of all liquors remaining on hand at the time of such meeting, and of all forfeited liquors by him received and sold or destroyed; which report, however, shall not specify the names of the persons to whom his sales may have been made. He shall receive for his services such fixed and stipulated compensation as said body appointing said agent shall prescribe, but the amount of said compensation shall not be increased by reason of any increase or diminution of the sales of such liquor by such agent, and he shall not be in any way, except as one of the inhabitants of the city, town, county or precinct, interested in said liquor, or in the purchase or sale thereof, or in the profits thereon; and no such agent shall be authorized to sell or give away any spiritous or intoxicating liquors, or any such liquors mixed with soda water, or any other compound, liquid, or otherwise, to be drank, taken or used as medicine or otherwise, in their shop, store or place of business, or in any of the appurtenances or dependencies thereof; but any such sale or giving away shall subject the said agent to the same penalties provided for the sale or giving away of liquors contrary to the provisions of this act. If any person purchasing any spiritous or intoxicating liquor of such agent shall intentionally make to such agent any false statement regarding the use to which such liquor is intended by the purchaser to be applied, such person so offending shall, upon conviction thereof, forfeit and pay a fine of

Compensation.

Penalty.

fifty dollars, together with costs of his prosecution, to be recovered by an action of debt, before any justice of the peace, or, if the offence is committed within a city, police magistrate of any such city, or by indictment in the circuit court of the proper county. Every such agent shall receive, from the body appointing him, a certificate authorizing him as agent of said town, city or county, as the case may be, to sell at the place mentioned in such certificate, spiritous or intoxicating liquors for sacramental, medicinal, chemical and mechanical uses only; which said certificate, when granted by any common council of a city, or president and trustees of a town, or county court, or board of supervisors, shall be issued by the clerks of said bodies, respectively, attested by their common or corporate seal, or in case there is no such seal, then by the private seal of said clerk. Said agent shall not receive any such certificate, or exercise his office, until he shall have executed and delivered to the body appointing him, for the use of the city, town or county appointing him, a bond, with at least two good and sufficient sureties, approved by said body appointing him, in a sum not less than six hundred dollars, in substance as follows:

Certificate to be
given to the
agent appointed.

"Know all men that we, _____, as principal, Form of bond.
and _____, as sureties, are held and firmly bound
to _____, in the sum of _____ dollars, to be
paid to said _____, to which payment we bind our-
selves, our heirs and executors, and administrators, firmly
by these presents. Sealed with our seals, and dated at
_____, this _____ day of _____, A. D. _____.

"The condition of this obligation is such, that whereas
the above bounden _____ has been appointed an agent
for said _____, to sell within said _____ and on ac-
count of said _____, spiritous or intoxicating liquors,
to be used for sacramental, medicinal, chemical and me-
chanical purposes only, until the _____ day of _____,
A. D. _____ unless he be sooner removed from his
agency. Now if the said _____ shall in all respects
conform to the provisions of the law in relation to his agen-
cy, and the laws of this state relating to the sale of spiritous
or intoxicating liquors, then this obligation to be void."

§ 6. If any such agent shall break the condition of such Penalty.
bond, such bond shall be forthwith put in suit, and his said
certificate and appointment shall immediately become void,
and he shall not thereafter be permitted to act as agent for
the sale of liquors anywhere in this state; and, moreover,
for any such violation shall be liable to the same penalties
herein by this act provided for the illegal sale or giving
away of liquors contrary to the provisions of this act.

§ 7. Every person who shall, in violation of this act,
manufacture spiritous or intoxicating liquor, or mixed

Penalty for the violation of the provisions of this act after first conviction.

quor of which a part is spiritous or intoxicating liquor, shall pay, on his first conviction for said offense, a fine of one hundred dollars and the costs of prosecution, and in default of payment thereof, shall be imprisoned sixty days in the common jail; on his second conviction for said offense he shall pay a fine of two hundred dollars and the costs of prosecution, and in default of payment thereof he shall be imprisoned four months in the common jail; and on every subsequent conviction for said offense he shall pay a fine of two hundred dollars and be imprisoned four months in the common jail. Every prosecution under this section, if the offense is committed within the limits of any city, shall be heard and determined before the police magistrate's court, and said court shall, upon every conviction, order that the person so convicted shall stand committed until the fine and costs are fully paid; or, if upon the first conviction, until he shall have been imprisoned sixty days, and also that he be imprisoned for the period herein provided, if upon a subsequent conviction; or such prosecutions for offenses against the provisions of this section, when committed without the limits of a city, shall, in the first instance be brought before any justice of the peace of the proper county, who shall thereupon proceed in the same manner as provided for in the 203d section, of chap. XXX, of the Revised Statutes, in reference to the violations of the provisions of that chapter.

Penalty for giving away or exchanging for other property.

§ 8. If any person, in violation of this act, by himself, his servant or agent, shall, for himself or any body else, directly or indirectly, or on any pretence, or by any device, sell, or in consideration of the purchase of any other property give to any person any spiritous or intoxicating liquor, or any liquor of which part is spiritous or intoxicating, or shall at any store, grocery, tavern, or place of trade, entertainment, or public resort, or in any of the appurtenances or dependencies of any such place or any public place, give away any such liquors he shall pay, on his first conviction for said offense, fifty dollars and the costs of prosecution; and on the second conviction for said offense he shall pay a fine of one hundred dollars and costs of prosecution, and on every subsequent conviction he shall pay a fine of two hundred dollars and the costs of prosecution, and shall be imprisoned not less than three months nor more than six months. Every prosecution under this section shall, if the offense is committed within the corporate limits of any city, be heard and determined before one of the police magistrate's courts in said city, and said police magistrates are authorized and required, in case of conviction, to order the person or persons so convicted to stand committed until the fine and costs are fully paid, and also to commit said convicted persons for the

term of imprisonment for which they may be sentenced. In cases of trial by jury under this section, the jury shall fix the time of imprisonment in case of conviction as above provided, but if the accused shall plead guilty, or shall consent to the trial by said police magistrate, then the said police magistrate may fix the term of imprisonment; or prosecutions for the first and second of said offenses, when committed without and beyond the limits of any city, shall be brought in the first place before any justice of the peace of the county where said offenses may be committed, who may hear and determine the same, and upon conviction, issue execution against the goods and chattels for the fine and costs, or the said justice in his discretion may proceed according to section 203d, of chapter XXX, of Revised Statutes, and in the manner therein provided for offenses against the provisions of that chapter; and prosecutions for the third or any subsequent offense committed without the limits of any city, shall also be first brought before any justice of the peace of the proper county, who shall thereupon proceed according to said section 203d, of chapter XXX, Revised Statutes. All clerks, agents, and servants of ever kind employed in selling or keeping for sale, or giving away, in violation of the provisions of this act, of any spiritous or intoxicating liquor, or any mixed liquor, a part of which is spiritous or intoxicating, shall incur the same penalties and be prosecuted against in the same manner as principals, and may in the information, indictment, or complaint, be charged in the same manner and be convicted, whether their principals be convicted or not. No such clerk, servant, or agent, shall be excused from testifying against his principal on the ground or for the reason that he may thereby criminate himself; but no testimony so given by him shall in any prosecution be used as evidence, either directly or indirectly, against said clerk, servant, or agent, nor shall he thereafter be prosecuted for any offense so disclosed by him.

Penalties applicable to clerks, agents and servants.

§ 9. No person shall own or keep any spiritous or intoxicating liquor, or any mixed liquor of which a part is spiritous or intoxicating, with intent to sell or give away the same in violation of this act, or to permit the same to be sold or given away in violation of this act; and every person who shall own or keep any such liquor with any such intent, shall, on his first conviction for said offense, pay a fine of fifty dollars and the costs of prosecution; on his second conviction shall pay a fine of one hundred dollars and costs of prosecution; on every subsequent conviction for said offense he shall pay a fine of two hundred dollars and the costs of prosecution, and shall be imprisoned not less than three nor more than six months. Every prosecution for said offenses when committed within the cor-

Penalty for the violation of the provisions of this act.

porate limits of any city in this state, shall be heard and determined by one of the police magistrates of said city, and such magistrate is authorized and required to order any person so convicted before him to stand committed until the fine and costs imposed hereby are fully paid, and to stand committed for the time of imprisonment for which he may be sentenced, as herein provided for; and when said offenses shall be committed beyond the limits of any city, then said prosecutions shall first be brought before some justice of the peace of the proper county, who may hear and determine prosecutions for the first and second offenses, and issue executions against the goods and chattels of any person convicted before him therefor; or the said justice, in his discretion, may proceed according to section 203, of chap. XXX, in the Revised Statutes, in the manner provided therein in relation to offenses against such chapter; and every prosecution for a subsequent offense so committed beyond the limits of any city, shall first be brought before some justice of the peace of the proper county, who shall thereupon proceed according to said section 203, of chapter XXX, Revised Statutes. And upon the trial of every complaint for the violation of this section or of the eighth section of this act, proof of the finding of the liquor specified in the complaint in the possession of the accused, in any place except his private dwelling house or its dependencies, (or in such dwelling house, or dependencies if the same be a tavern, public eating house, grocery, or other place of public resort,) shall be received by the court, magistrate, or justice of the peace, as presumptive evidence that such liquor was kept for sale contrary to the provisions of this act.

appeal may be
taken.

§ 10. Any person may appeal from a final judgment rendered against him by a justice of the peace for a first or second offense under section eight or section nine, and from any final judgment of a police magistrate of any city, to the circuit court of the county wherein said judgment may have been rendered: *Provided*, he shall forthwith give bond in not less than five hundred dollars, with at least two good and sufficient sureties, with condition to appear at the court appealed to, and there to prosecute his appeal and to abide the sentence of the court thereon, and that he will not, during the pendency of such appeal, violate the provisions of this act. Said bond may be approved by the justice of the peace or police magistrate rendering the judgment, or by the clerk of the circuit court, in the manner provided by law in other cases.

Nuisance.

§ 11. All spiritous or intoxicating liquors, and all mixed liquors, of which a part is spiritous or intoxicating, intended by the owner or keeper thereof to be sold or given away, in violation of this act, shall, with the ves-

sels in which it is contained, be deemed a nuisance, and shall, with said vessels, be forfeited to the city, town or county in which it is kept.

§ 12. If any two or more persons, residents in any city, county or town, being of full age, shall before a justice of the peace of the county or police magistrate of said city, make written complaint that any spiritous or intoxicating liquor, or any mixed liquor, of which a part is spiritous or intoxicating (described as nearly as may be in said complaint) is in said town, city or county in any place described as nearly as may be in said complaint, or in any steamboat, or water craft of any kind, depot, railroad car or land carriage of any kind, described as nearly as may be in said complaint, or in a street or public highway, or any public place whatsoever, described as nearly as may be in said complaint, kept, owned or carried by any person or corporation, described as nearly as may be in said complaint, and is intended by him or them to be sold or given away in violation of this act; and if said complainants shall, before said justice or police magistrate, as the case may be, make oath or affirmation that they have reason to believe, and do believe, to be substantially true the allegations in said complaint, said justice or police magistrate, as the case may be, (upon finding probable cause for said complaint) shall issue his warrant of search, directed to the sheriff of the county, his deputy or any constable of said county, or if to be executed within the limits of a city to the sheriff of the county, his deputy, or any constable of the county or city marshal of said city or his deputies, describing as nearly as may be the liquor and the place described in said complaint, and the person described in said complaint as the owner or keeper of said liquor, and commanding said officer to search thoroughly the said place, to seize said liquor, with the vessels containing it, and to keep the same securely until final action be had thereon: *Provided, however,* that if the place to be searched be a dwelling house in which any family resides, and in which no tavern, eating house, grocery or other place of public resort is kept, such warrant shall not be issued, unless one at least of said complainants shall on oath or affirmation before said justice or police magistrate declare that he has reason to believe, and does believe, that within one month next before the making of said complaint, spiritous or intoxicating liquor, or mixed liquor, of which a part is spiritous or intoxicating, has been, in violation of this act, sold in said house or in some dependency thereof, by the person accused in said complaint, or by his consent or permission; nor unless from the facts and circumstances disclosed by said complainant to said justice or police magistrate, said justice or police magistrate shall be of opinion

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Proviso.

that said complainant has adequate reason for such belief. Whenever the offense shall be alleged to be without and beyond the limits of an incorporated town or city, then the complaint herein provided for may be made by any residents of the county before any justice of the peace of the county, and warrant of search may be issued by such justice in the manner herein above provided.

Duty of justices
of the peace and
police magis-
trates.

§ 13. Whenever upon such warrant such liquor shall have been seized, the justice or police magistrate issuing said warrant shall, within forty-eight hours after such seizure, cause to be posted upon some public place within such town, city or (in case the said liquor is so found without the limits of an incorporated town or city) county, and to be left at the place where said liquor was seized, if said place be a dwelling house, store or shop, and to be left with or at the last usual place of abode of the person named in said complaint as owner or keeper of said liquor, if such person be a resident of this state, a notice summoning such person, and all others whom it may concern, to appear before said justice or police magistrate, at a place and time named in said notice, which time shall not be less than two nor more than four weeks after the posting and leaving of said notices, and show cause, if any they have, why said liquor should not be forfeited, with the vessels containing it; and said notice shall, with reasonable certainty, describe said liquor and vessels, and state where, when and why the same were seized. At the time and place prescribed in said notice the person named in such complaint, or any person claiming an interest in said liquor and vessels, or any part thereof, may appear and show cause why the same should not be forfeited. If any person shall then and there so appear, he shall become a party defendant in said cause, and said justice or police magistrate shall make a record thereof. Whether any person so appear or not, said complainants, or either of them, or upon the failure of such complainants the officer having such liquor in custody, shall appear before said justice of the peace or police magistrate, and prosecute said complaint, and show cause why such liquor should be adjudged forfeited; and said justice or police magistrate shall make a record of such appearance and the name of such prosecutor, and shall proceed to inquire whether said liquor and vessels be liable to forfeiture; and if upon the evidence then and there presented to him he shall find that said liquor, or any part thereof, was, when seized, kept or carried by any person for the purpose of being sold or given away in violation of this act, said justice or police magistrate shall render judgment that said liquor, or said part thereof, with the vessels in which it is contained, is forfeited. If no person be made defendant in manner aforesaid, or if judgment be in favor of all the de-

defendants who appear, then the costs of the proceedings shall be paid by the city, town or (if the said liquor is found as aforesaid without and beyond the limits of an incorporated town or city) county. If the judgment of said justice or police magistrate shall be against only one defendant appearing as aforesaid, he shall pay all the costs of the proceedings in the seizure and detention of the liquor claimed by him up to that time and of said trial. But if such judgment shall be against more than one party defendant claiming distinct interest in said liquor, then the costs of said proceedings and trial shall be equitably, according to the discretion of said justice or police magistrate, apportioned among said defendants; and in either case such costs shall be collected by execution or executions issued by said justice or police magistrate against the property and (if said executions are issued by a police magistrate) bodies of the defendants whose duty it is to pay the same, and paid into the treasury of the town, city or county, as the case may be, where the said liquor was seized. And if any such execution shall not be forthwith paid, the defendant in execution, if said execution shall have been issued by a police magistrate, shall be committed to jail, and shall not be released therefrom until he shall have paid said execution and the costs of his commitment and detention, or if said execution is issued by a police magistrate, until he shall have been imprisoned thirty days at least. The said justice of the peace or police magistrate shall have power to continue to another time, not exceeding fifteen days, the hearing of the question of forfeiture as herein provided, and also to adjourn the same from day to day until determined. Any person appearing as aforesaid may appeal from said judgment of forfeiture (as to the whole or any part of the liquor and vessels so adjudged forfeited) to the circuit court next to be holden in the county wherein such judgment is rendered, but his appeal shall not be allowed until he shall give bonds, with good and sufficient security, to be approved by the justice or police magistrate before whom said judgment shall be rendered, to the treasurer of the town, city or county, as the case may require, in such an amount as said justice or police magistrate shall order, not less than five hundred dollars, conditioned that he appear before said circuit court and prosecute his said appeal and abide the order of the court thereupon, and also, that he will not, during the pendency of said appeal, violate any of the provisions of this act; and in each instance in which any such appeal or appeals is or are allowed, said justice or police magistrate shall transmit to the clerk of said court, within ten days thereafter, and on or before the first day of the term to which said appeal or appeals shall be taken, a copy of said record, by him made, of the original complaint, and

Appeal may be
taken.

all proceedings had before him in the case and said complaint; and the case or cases arising upon said appeal or appeals shall thereupon be pending before said circuit court. If before said circuit court no party so appealing shall appear, the appeal bond or bonds shall be forfeited, and said court shall render judgment that the liquor and vessels in respect to which said appeal or appeals has or have been taken are forfeited; but if any party or parties so appealing shall appear, said court shall proceed to try, by jury, the issue or issues arising upon said appeal or appeals, severally or collectively, as said court may deem proper; and if by verdict of the jury, accepted by the court, it is found that said liquor, in respect to which any appeal was taken, was, when seized, kept by any person for the purpose of being sold or given away in violation of this act, then said liquor and vessels containing it shall be adjudged forfeited, and said court shall tax the costs arising upon said appeal against said party appealing, and order him to pay the same forthwith; and for the payment thereof, according to said order, his said appeal bond shall stand as security, and said defendant may by said court be committed to jail until the fine and costs are paid.

Forfeited liquors
to be delivered
to agent.

§ 14. Whenever it shall be finally decided that liquor seized as aforesaid is forfeited, the justice of the peace, police magistrate, or other court rendering final judgment of forfeiture, shall issue to the officer having said liquors in custody, or to some other proper officer, a written order, directing him to deliver said liquor and the vessels containing it, to some agent duly appointed for the sale of intoxicating liquors in the city, town, township or precinct of the county where said liquor was seized, or in case there be no such agent in said city, town, township or precinct, then to some other such agent in some other city, town, township or precinct in the same county, which order the said officer, after obeying the commands thereof, shall return to said court with his doings thereon endorsed. Said agent shall receive said liquor and vessels, and if, in his opinion, the same, or any part thereof, be fit to be sold for any lawful uses, he shall sell the same, or such part thereof, in the course of his agency, for the benefit of the city, town or county, as the case may be, wherein the same were seized; and if, in his opinion, the same, or any part thereof, be not fit to be sold, he shall destroy the same, or such part thereof. Whenever it shall be finally decided that any liquor so seized is not liable to forfeiture, the court so deciding shall issue a written order to the officer having the same in custody, or to some other proper officer, to restore said liquors, with the vessels containing it, to the place where it was seized, as nearly as may be, or to the person entitled to receive it, which order the said officer, after obey-

ing the commands thereof, shall return to said court with his doings thereon endorsed. And the costs of the proceedings in such case shall be taxed and paid by the city, town or county wherein said liquor was so seized.

§ 15. Whenever any officer authorized to commence a prosecution for a violation of the ninth section of this act, shall in any way receive notice that liquor has been seized upon a warrant issued pursuant to the twelfth section of this act, said officer shall immediately cause a prosecution for violation of said ninth section to be commenced before the justice or police magistrate who issued said warrant against the person named in said warrant as the owner, or keeper, or carrier of the liquid to be seized, unless such prosecution shall have been already commenced by some other proper officer.

§ 16. A complaint under the twelfth section of this act may be in form, substantially, as follows :

"To A. B., esq., a justice of the peace of the county of _____, or police magistrate of the city of _____, [as the case may be.] The complaint of the undersigned [resident in said _____, of full age,] sheweth that in a certain place in said _____, to wit: [here insert description of shop, house, or other place, describing the same as nearly as may be,] certain liquor, to wit: [here insert description of liquor, describing the same as nearly as may be] is owned or kept [as the same may be] by C. D. in the _____, in the county of _____, and is intended by said C. D., to be sold or given away in violation of the act of 1855, entitled "An act for the suppression of intemperance, and to amend chapter thirty of the Revised Statutes," and against the peace and dignity of the people of the state of Illinois. Wherefore, the complainants pray your honor to issue a warrant of search, that said place may be searched, and said liquor seized and disposed of according to law.

Dated at _____, this _____ day of _____. E. F.,
G. H.,
I. J."

The justice of the peace or police magistrate to whom such complaint is made, having administered the oath or affirmation required by section twelfth, may certify on such complaint the administration of said oath and his finding thereon, in the following form:

"———county——ss. [Town or city and date.] Personally appeared E. F., G. H. and I. J., residents in said _____, being of full age, and presented to me the foregoing complaint, by them signed, and made solemn oath [or affirmation, as the case may be] before me, that they have

reason to believe, and do believe to be substantially true the allegations in said complaint. Whereupon, I find that probable cause exists for said complaint; and [in case a dwelling house, &c., is to be searched] the said , one of said complainants, having on his oath [or affirmation] before me declared that he has reason to believe, and does believe, that within one month next before the making of said complaint, spiritous or intoxicating liquor, or mixed liquor, a part of which is spiritous or intoxicating, has been sold in violation of the act of 1855, for the "suppression of intemperance, and to amend chapter thirty of the Revised Statutes," in said house, or in some dependency thereof, by the person accused, or by his consent or permission, upon the facts and circumstances disclosed by said , to me, I am of the opinion he has adequate cause for such belief.

A. B., *J. P. or Police Magistrate.*"

A warrant issued pursuant to section twelfth may be, in form, substantially as follows :

Form of warrant. "The people of the state of Illinois to the sheriff of the county of , his deputy, or either constable of said county, or [if the warrant is to be executed in any city] to the sheriff, deputy sheriff, or constable of the county of , or marshal of the city of , greeting :

"Whereas, E. F., G. H. and I. J., residents in said , being of full age, have, before me, made their written complaint, that in a certain place in said , to wit: in [here insert a description of shop, house, or other place, describing the same as nearly as may be] certain liquor, to wit: [here insert a description of the liquor as nearly as may be] is owned or kept [as the case may be] by C. D., of [name of county, city, town or other place, naming it,] and is intended by said C. D., to be sold or given away, in violation of the act of 1855, entitled "An act for the suppression of intemperance, and to amend chapter thirty of the Revised Statutes," and against the peace and dignity of the people of the state of Illinois.

"And whereas, said complainants have before me made solemn oath [or affirmation, as the case may be] that they have reason to believe, and do believe, to be substantially true, the allegations in said complaint; and whereas I do find that probable cause exists for said complaint, and [in case a dwelling house, &c., is to be searched,] and the said , one of said complainants, having on his oath [or affirmation, as the case may be,] before me declared that he has reason to believe, and does believe, that within one month next before the making of said complaint, spiritous or intoxicating liquors, or mixed

liquors, part of which is spiritous or intoxicating, has been sold in violation of the act of 1855, for "the suppression of intemperance, and to amend chapter thirty of the Revised Statutes," in said house or some dependency thereof, by the person accused in the complaint aforesaid, or by his consent, [or permission,] upon the facts and circumstances disclosed by said , I am of opinion that he has adequate cause for such belief; now, therefore, in the name and by the authority of the people of the state of Illinois, you are hereby commanded to search thoroughly, the said place, and to seize said liquor and the vessels containing it, and securely keep the same until final action be had thereon. Hereof fail not, but due return make.

Dated at , this day of
A. B., J. P., or Police Magistrate."

The form of notice required by section thirteen may be substantially as follows:

"To C. D. of , in the county of , and to all others whom it may concern—Greeting: Form of notice

"Whereas, pursuant to the provisions of an act entitled "An act for the suppression of intemperance, and to amend chapter thirty of the Revised Statutes," upon due complaint, dated , and upon warrant duly issued upon said complaint, certain liquor, with the vessels containing it, [describe the liquor and the vessels with reasonable certainty] was seized at [describe the place as nearly as may be] in the , of , on the day of , A. D., 18 , by [name of officer] a [sheriff, deputy sheriff, or other officer, as the case may be] which said liquor and vessels were seized because it is alleged that said liquor was owned, or kept, or carried, by some person, with intent that said liquor should be sold or given away contrary to the law. And whereas the said liquor, if so owned or kept, with such intent, is liable to forfeiture; now you, the said C. D., and all others whom it may concern, are hereby summoned to appear before me at [name of town, city, or other place,] on the day of , at o'clock, in noon, then and there to show cause, if any you have, why said liquor and vessels should not be adjudged forfeited.

Dated at , this day of , A. D. 18 .
A. B., J. P., or Police Magistrate."

§ 17. If any person shall be found in a state of intoxication in any highway, street, court house, or other public place, or shall be found in a state of intoxication in any place, committing any breach of the peace, or disturbing others by noise, any sheriff, deputy sheriff, constable, or

[if within any city,] said officer, or any police officer of a city, city marshal or other officer, may, without warrant, and it is hereby made his duty to take such person into custody, and detain him in some proper place until, in the opinion of such officer, he shall be so far recovered from his intoxication as to be capable of properly testifying in a court of justice, and shall then bring him, if said person is willing before some justice of the peace of the county, or if arrested within a city, police magistrate of a city; and if such person is willing to make full disclosures regarding the person or persons of whom, and the time, place and manner in which the liquor producing his intoxication was procured, and all the circumstances attending it, such justice or police magistrate shall administer to him the oath provided for witnesses, and he shall inquire of him in the presence of the officer, regarding the matter, and if upon such inquiry, it shall appear to such officer that any of the offenses specified in the eighth or ninth sections of this act have been committed within this state, such officer [who is hereby authorized so to do] shall in due form of law file his complaint to said justice or police magistrate against the person or persons upon such disclosure appearing to the officer to be guilty thereof, and shall, if the said person so taken intoxicated be willing thereto, detain said person until the trial of said complaint before said justice or police magistrate. And said justice or police magistrate shall issue his warrant for the immediate arrest of the person charged in said complaint, and he shall accordingly be arrested and brought before said justice or police magistrate [as the case may be] to answer to said complaint, and shall be tried thereon without unnecessary delay, and convicted or acquitted in due form of law; and it shall be the duty of said officer to prosecute such complaint, and of any state's attorney, or [if the offence is committed within the limits or jurisdiction of a city] the city attorney to assist him in such prosecution. And the person so arrested, when taken and brought before said justice of the peace or police magistrate shall be immediately put to plead to said complaint; and unless he plead guilty, the trial of said complaint shall be commenced, and, whether he plead guilty or not, the testimony of the person found intoxicated as aforesaid shall be taken, of which testimony the said justice or police magistrate shall make a true record; and if the person so complained against shall be found guilty, and shall appeal from the judgment of said justice or police magistrate, or [in the cases before a justice hereinbefore provided for in sections eight and nine] shall give bail for his appearance at the next term of the circuit court of the county wherein said judgment is rendered, or shall be committed in default of giving bail for

his said appearance, said justice may, in his discretion, recognize with surety such witness for his appearance to testify in said case before the court to which said appeal may be taken, or to which said defendant shall be required to appear. And if upon such trial or trials the person so found intoxicated shall, in the opinion of the prosecuting officer, testify freely, fully and fairly regarding the procurement or receipt of the liquor which produced his intoxication, the person or persons of whom, and on what terms it was obtained or received, and the time and place of such receipt, and all the circumstances regarding it, he shall be discharged, and no evidence which he shall have given, either before said justice or police magistrate in making such disclosures, or as a witness upon said trial or trials, shall be used against him in any trial or proceeding whatever; nor shall any prosecution be instituted or carried on against him for or on account of such intoxication. But if he shall refuse to be taken before said justice of the peace or police magistrate, as hereinabove provided, by the officer or officers having him in custody, or if, when brought before such justice of the peace or police magistrate, he shall refuse to make disclosures before said justice or police magistrate in the manner hereinbefore provided for, or shall refuse to testify freely and fully, as a witness on said trial or trials, then he shall be in due form prosecuted for his intoxication, and on conviction thereof be punished as provided in the twenty-sixth section of this act. The costs of the arrest and detention of the person so taken intoxicated shall, upon the order of the justice or police magistrate before whom such person is brought, be paid from the treasury of the town, city or county in which the arrest is made. This section shall not be so construed as to authorize the forcible detention of the person so taken intoxicated after he shall have recovered from his intoxication, until the trial of the person or persons against whom his disclosures shall be made before the justice or police magistrate; but if such person, upon recovering from his intoxication, shall not voluntarily consent to go, and go with the officer, and make the disclosures contemplated in this section, and shall not thereafter voluntarily remain in custody of such officer, or some other proper person by said officer designated, until such trial, he shall be forthwith prosecuted for his intoxication under the twenty-sixth section of this act; and any officer who by this section is authorized to arrest such intoxicated persons, may make complaint against and prosecute such person for such intoxication.

§ 18. Every sheriff, deputy sheriff and constable of any county, mayor or city marshal, or other police officer of any city, or the president and trustees of any incorporated town, are hereby authorized, and it is hereby made their

Refuse to testify

Duty of sheriffs,
constables, mar-
shals, &c.

Penalty for viola-
tion.

duty, within their respective counties or cities or towns, as the case may be, when any violation of any of the provisions of this act shall come to their or his knowledge, or on being informed of the same, and being furnished with reasonable proof of the fact, or having good reason to suspect that an offense has been committed against this act, to make the complaints, and to institute and carry on prosecutions against any person or persons violating the provisions of this act as hereinbefore provided; and any complaint herein provided for may be so made by any one of the said officers. If any such officer receiving salary or fees, knowing or being informed, and being furnished with reasonable proof of the fact, or having good reason to believe or suspect that any person or persons have, within their respective jurisdictions, been guilty of violating any of the provisions of this act, shall fail to make complaints and institute and carry on prosecutions against such person or persons so offending, as herein provided for, said officer or officers shall, upon conviction, be punished by fine not less than twenty-five and not exceeding one hundred dollars. And moreover, upon conviction, if the same shall be had in the circuit court of the county wherein such officer shall hold his office, or of the circuit court of any other county to which the same may be removed by change of venue under the laws of this state, it shall be the duty of the court before whom such conviction shall be had, to declare the office of said officer vacant; and said officer shall thereafter be disqualified from holding the same office anywhere in the state of Illinois. For any violation of this section prosecutions may, upon the complaint of any resident of the county, or (in case of violation hereof by a city marshal, mayor or other police officer of any city,) city wherein said officer shall hold his office, before any justice of the peace, or in case of a city officer, police magistrate, or by indictment in the circuit court of the county wherein said officer shall hold his office. Nothing in this section shall be construed to prevent any residents of a town, city or county, as the case may be, from making complaints and instituting and carrying on prosecutions as in other sections of this act provided. Sheriffs, deputy sheriffs and constables are authorized, and it is hereby expressly made their duty, to make said complaints and institute and carry on prosecutions for violations of this act where the offenses may be committed within the limits of an incorporated city, or any other place in their county, anything in any law or charter to the contrary notwithstanding.

Cases to be conducted by the state and city attorneys.

§ 19. All cases under this act which shall come by appeal, writ of error or in any other manner before any higher court than a justice's court, shall in such higher court be

conducted by the state's attorney or (in case the offense be committed within the limits of any city,) city attorney (as the case may be) in behalf of the prosecution, and shall take precedence in such court of all other criminal business, except those criminal cases in which the parties accused are actually under arrest awaiting trial; and the prosecuting officers shall not have authority to enter a *nolle prosequi*, except by the consent of the court, and where the purposes of justice manifestly require it.

§ 21. Whenever default shall be had of any recognisance, or whenever a breach of the condition of any recognisance or bond given pursuant to this act shall have occurred, the proper officer shall forthwith commence suit upon said recognisance or bond, and pursue the same to final judgment as speedily as possible. Any judgment recovered in such suit shall be for the full amount of said recognisance or bond, with costs of suit; and no court or officer shall remit to the defendant or defendants any part of said judgment. Suit on bond.

§ 22. In any complaint or indictment under this act, it shall not be necessary to set forth exactly the kind or quantity of liquor sold or manufactured, nor whether the accused was a principal or clerk, servant or agent, or the exact time of the sale or the manufacture thereof, but proof of the violation by the accused of any provision of this act, the substance of which violation is briefly set forth in said complaint or indictment, within the times mentioned in said complaint, shall be sufficient to convict such persons; and it shall not be requisite in any complaint or indictment for a second or subsequent offence to set forth the record of a former conviction, but it shall be sufficient briefly to allege in such complaint such former conviction. Nor shall it be necessary, in every case, to prove payment in order to prove a sale within the meaning of this act. This act shall in all courts be liberally construed for the detection and punishment of offenses; and any defects in any complaint or indictment or declaration, either of form or substance, may be amended by the court before which the same is pending, whether by original entry, appeal or otherwise. Not necessary to set forth the kind of liquor in complaint.

§ 23. A justice of the peace, police magistrate or clerk of the circuit court shall be entitled to receive for causing notices to be posted up and left pursuant to section 13, fifty cents for each notice; and for receiving a complaint and making certificate thereon, as required by sections 12 and 16, the justice of the peace or police magistrate shall be entitled to receive one dollar; for issuing an order pursuant to section 14, fifty cents; where notice shall be published in a newspaper, the printer or publisher of such paper shall be entitled to receive such compensation as the Fees.

court shall order; and the officer who shall make service of any warrant for the seizure of liquor, shall be allowed for the same two dollars; for the removal and custody of said liquor, his reasonable expenses and one dollar; for the delivery of any such liquor under order of the court, his reasonable expenses and one dollar; and for posting and leaving the notices required by section 13 and 33, one dollar. For all other services under this act, the said justice of the peace, police magistrate, clerks or other officers shall be allowed to receive the same compensation as is now by law allowed for similar services. Nothing in this act or any law of this state shall prevent any of said officers from receiving any additional compensation which may be allowed to them by the ordinances of any incorporated town or city. Nor shall any interest which said officers may have in their fees or in such compensation render said officers incompetent to testify as witnesses in any trial or proceeding authorized by this act; nor shall any person be rendered incompetent to testify as a witness in any trial or proceeding authorized by this act by reason or on account of said person being an inhabitant of any town, city or county wherein an offence may be committed, or such proceeding may be had.

Additional compensation.

Common council to prosecute for breach of bond.

§ 24. The common council of any city, the president and trustees of any incorporated town, or the board of supervisors, or the county court of any county, whenever complaint shall be made to them that a breach of the condition of the bond given by an agent appointed by them under this act has been committed, shall notify such agent of such complaint, and if upon hearing of the parties it shall appear that any such breach has been committed, they shall revoke said agent's appointment; and whenever such breach is in any way made known to the common council of any city, the president and trustees of any town, the board of supervisors or county court of any county, or any one of them, they or he shall, at the expense and for the use of said city, town or county, cause the bond to be put in suit.

Penalty for violating the provisions of this act.

§ 25. All payments or compensations for liquor hereafter sold in violation of this act, whether such compensation be in money, goods, land, labor, or anything else, shall be held to have been received in violation of law and against equity and good conscience, and to have been received upon a valid promise and agreement of the receiver in consideration of the receipt thereof to pay to the person furnishing such consideration on demand the amount of said money, or the just value of such goods, land, labor or other thing. All sales, transfers, conveyances, mortgages, liens, attachments, pledges and securities of every kind, which either in whole or in part shall have been made for or on

account of spiritous or intoxicating liquors sold in violation of this act, shall be utterly null and void against all persons in all cases, and no rights of any kind shall be acquired thereby; and no action of any kind shall be maintained in any court of this state for spiritous or intoxicating liquors, or mixed liquor, of which a part is spiritous or intoxicating, sold in any other state or country contrary to the law of said state or country, or with intent to enable any person to violate any provision of this act, nor shall any action be maintained for the recovery or possession of spiritous, or itoxicating, or mixed liquor, or the value thereof, except in cases where persons owning or possessing such liquor, with lawful intent, may have been illegally deprived of said liquor. Nothing in this section, however, shall affect in any way negotiable paper in the hands of any *bona fide* holder thereof who may have given valuable consideration therefor, without notice of any illegality in its inception or transfer, or the holder of land or other property who may have taken the same in good faith without notice of any defect in the title of the person from whom it was taken; and all other sections of this act, and all evidence given under them, shall be construed in the same way as they would be if this section were omitted from this act, and have the same effect. In all actions at law or suits in equity brought for the recovery of spiritous, intoxicating or mixed liquor, or the value thereof, or founded upon sales, transfers, conveyances, mortgages, liens, attachments, pledges and securities of every kind, which either in whole or in part shall have been made for or on account of spiritous or intoxicating liquor sold in violation of this act, it shall not be necessary for the defendant or defendants to plead the same, or that said liquor was sold contrary to the provisions of this act, but the same may be given in evidence on the trial of such action or suit in equity; and whenever it shall appear in evidence or by the pleadings to any court before which such actions at law or suit in chancery shall be tried or pending, that the same is brought for the recovery of spiritous or intoxicating liquor, or mixed liquor sold contrary to the provisions of this act, or the value thereof, (except in cases where persons owning or possessing such liquor with lawful intent, may have been illegally deprived of said liquor,) or is founded upon any sale, transfer, conveyance, mortgage, lien, attachments, pledges or securities of any kind, which either in whole or in part shall have been made for or on account of spiritous or intoxicating liquor sold in violation of this act, it shall be the duty of said court, whether the defendant or defendants interpose said defense or not, or whether the said defendant or defendants desire the same to be done or not, forthwith to dismiss the said action at law or suit in equity, at the cost

Not to extend to
negotiable paper
in the hands of
holder *bona fide*

of the plaintiff or plaintiffs or complainant or complainants, unless the said action at law or suit in equity shall be instituted for his own use and benefit by the *bona fide* holder of negotiable paper, who may have given a valuable consideration therefor without notice of any illegality in its inception or transfer, or the holder of land or other property who may have taken the same in good faith, without notice of any defect in the title of the person from whom it was taken.

Fine for being
found intoxica-
ted in the public
places.

§ 26. If any person shall be found intoxicated in any highway, street, court house or other public place, or shall be found in a state of intoxication in any place committing any breach of the peace, or disturbing others by noise, he shall, on conviction thereof, pay a fine of twenty dollars to the city, town or (if found intoxicated in any highway, street, court house or other public place, or shall be found in a state of intoxication in any place committing any breach of the peace, or disturbing others by noise without the limits of an incorporated city or town) county in which the offense is committed, together with the costs of prosecution, and stand committed until the fine and costs are paid. Every prosecution for a violation of this section shall be heard and determined by a justice of the peace of the county or (if within the limits of an incorporated city) by a police magistrate of the city where the offense was committed; but the person convicted upon said prosecution may appeal from said judgment to the circuit court of the county in which the offense is committed: *Provided*, that he shall forthwith give such bond (of recognisance) with surety as said justice or police magistrate shall order, conditioned for his appearance at the next term of the said circuit court to answer said complaint, and for abiding the judgment that may be rendered by the court thereon; and if in case of conviction of said offense before any police magistrate, or before the circuit court, the person so convicted shall fail to pay the fine and the costs of his prosecution, he shall be committed to jail, and shall not be released until he shall have been imprisoned for thirty days. And if any officer authorized to arrest with or without warrant any person so found intoxicated shall fail so to arrest any person whom he may see intoxicated, said officer shall forfeit and pay for every such offense twenty dollars, to be recovered by an action of debt before any justice of the peace of the county or police magistrate of any city within which said officer shall hold his office.

Proviso.

Compensation to
agents.

§ 27. The common council of any city, the president and trustees of any incorporated town, the board of supervisors or the county court of any county, or a majority of either of said bodies, may appropriate out of the city, town or county treasury such sums as in their judgment

shall be necessary for the purchase of spiritous or intoxicating liquor by the agent or agents of said city, town or county, to be by him or them sold under the provisions of this act. And no agent appointed under this act shall have power on behalf of any city, town or county to contract any debt for spiritous or intoxicating liquors which shall to any extent be binding on such city, town or county. All fines and forfeitures collected under the provisions of this act, and all profits accounted for by agents to sell spiritous or intoxicating liquors shall be applied—first, to the payment of the compensation allowed said agent or agents, next to the payment of costs which may under the provisions of this act be incurred by said city, town or county, and the remainder, if any, shall be put into the school fund of the city, town or county, as the case may require, in which the offense may have been committed or the profits made. If any agent appointed under this act, shall sell any liquor at a greater profit than hereinbefore provided for, such agent shall be deemed guilty of an unlawful sale, and shall be prosecuted, and upon conviction be punished and dealt with in the same manner provided in case of illegal sales by other persons, and moreover shall *ipso facto* forfeit his appointment as agent, and shall not be thereafter qualified or allowed to act as agent for the sale of spiritous or intoxicating liquors under this act anywhere in this state.

Application
fines and
forfeitures.

§ 28. Whenever any violation of any of the provisions of this act shall be committed in any incorporated town or city, the prosecutions herein provided for may be instituted and carried on in the name of said city or town. In all cases under this act (except where the justice of the peace or police magistrate may be acting as a court of inquiry in accordance with the provisions of this act, and section 203, chapter XXX, Revised Statutes) the party prosecuting or the defendant or defendants shall be entitled to a trial by jury, and in cases of trial by jury, where the punishment is by fine or imprisonment, either or both, the jury shall fix by their verdict the amount of the fine and the period of imprisonment, in accordance with the provisions of this act. Appeals may be taken in all cases from the judgment of justices of the peace or police magistrates (except where said justice or police magistrate may be sitting as a court of inquiry as aforesaid) provided the defendant or defendants shall forthwith give the bond or bonds hereinbefore required. And any city or town aforesaid may also appeal from any judgment of such police magistrate or justice of the peace in like cases, by filing with said justice or magistrate the bond of said city or town under the corporate seal thereof, if they have any, and if not, then said bond shall be signed by the president

Appeal may be
taken.

of the board of trustees of such town, or the mayor or other chief officer for the time being of any city. And in case said prosecution before said justice or police magistrate shall be in the name of the people of the state of Illinois, appeals may be allowed in the same way to the people as is now provided in cases of assault and battery. Any bond given on appeal from the judgment rendered by justices of the peace or police magistrate under the provisions of this act shall be from the date thereof until the same is discharged a lien on all the property, real and personal, of principal and securities. And no principal or security on any appeal bond shall be released from his or their liability thereon by reason of any defect, formal or substantial, in said bond, or in the execution or approval thereof; but the said principal and securities shall in all courts be held liable in the same manner and to the same extent as if the said bond or bonds had been in all respects, written, taken, conditioned, executed and approved according to law.

Manufacture not
prohibited for
certain purposes

§ 29. Nothing contained in this act shall be so construed as to prohibit the manufacture or keeping for sale of burning fluids of any kind, perfumery, essences, chemicals, dyes, paints, varnishes, cosmetics, solutions of medicinal drugs, medical compounds, or any other article which may be composed in part of alcoholic or other spiritous liquor, if not adapted to use as a beverage: *Provided, however,* that if such article is capable of being used, or is intended to be used as a beverage or in evasion of this act, the manufacture or keeping for sale, or sale thereof, shall be deemed a violation of this act and punished accordingly.

Duty of mayor,
alderman, &c.

§ 30. It shall be the duty of any mayor, alderman, city marshal or deputy marshal, sheriff, deputy sheriff or constable, if he shall have information that any intoxicating liquors are kept or sold in any tent, shanty, hut, wagon or hand carriage of any kind, or place of any kind, other than a dwelling house, for selling refreshments in any public place on or near the grounds of any cattle show, agricultural exhibition, military muster, camp meeting, or any public occasion of any kind, to immediately make complaint thereof on oath, before some justice of the peace or police magistrate, who shall issue his warrant, commanding him to search the place or places named in said complaint; and such mayor, alderman, city marshal or deputy marshal, sheriff, deputy sheriff or constable, shall proceed to search such suspected places, and if said officer shall find upon the premises any intoxicating liquor he shall seize said liquor and arrest the keeper or keepers of said place, or of said wagon or carriage, and take them forthwith, or as soon as may be, before some justice of

the peace of the county, or (if within a city) police magistrate of a city, and thereupon such officer shall make a written complaint, under oath or affirmation, and subscribed by him, to such justice or police magistrate, who shall thereupon proceed to hear and determine said complaint, and upon proof that such liquors are intoxicating, that they were found in the possession of the accused in a tent, shanty or other place as aforesaid, other than a dwelling house, he or they shall be sentenced, upon conviction, (if before a police magistrate) to imprisonment in the county jail for thirty days, or (if before a justice of the peace) to pay a fine of fifty dollars and costs of the proceedings; and said liquor so seized shall be forfeited and delivered over by the officer or other person having the same in custody, upon the order of the justice or police magistrate, to the agent (or one of them) of the city, town or county where such liquor shall have been seized, to be dealt with by said agent as other forfeited liquor.

§ 31. If any railroad conductor, freight agent, expressman, depot master, or other person in the employment of or in any manner connected with any railroad corporation, or any teamster, stage driver, or common carrier of any kind, or any person professing to act as agent for any other person or persons, whether within or without this state, or any other individual of whatever calling, shall knowingly bring within this state, for any other person, any intoxicating liquor, to be used or disposed of for any other purposes than those recognized lawful by this act, or shall knowingly procure for any other person or persons, or shall knowingly aid, assist or abet, in any manner whatever, any other person or persons in procuring intoxicating liquor, except for the purposes contemplated by this act, such person or persons so offending shall forfeit and pay into the treasury of the county, town or city, as the case may be, a fine of one hundred dollars and costs of prosecution on the first conviction, and on the second and every subsequent conviction two hundred dollars and costs, and be imprisoned in the county jail not less than three nor more than six months. If any contractor, sub-contractor, agent, engine driver, conductor, director, or other employee, engaged in the construction or operation of any railroad, canal or other public work in this state, shall violate any of the provisions of this act, he or they shall be fined and imprisoned, or either, as the case may be, to double the extent of other persons so offending.

Railroad conductors and other public agents liable to prosecution.

§ 32. Any person against whom or whose premises a search warrant has been issued, or any other person who shall refuse to permit the search to be made, or otherwise use violence to prevent the same, or who shall resist

Penalty for assisting officers.

any officer in the execution of any other process authorized by this act, or threaten to use violence to prevent the execution of the same, shall be deemed to have resisted the officer, and be made subject to the penalty inflicted by the Revised Statutes therefor.

Circuit court to
have jurisdiction
in certain
cases.

§ 33 Nothing in this act shall be so construed as to authorize any justice of the peace to try any person (except as a court of inquiry) for any offense against any provisions of this act where the punishment is by a fine above one hundred dollars or imprisonment, or to adjudge any liquor to be forfeited, as hereinbefore provided, where the value of said liquor shall exceed one hundred dollars; but in all cases where any person for any offense, the punishment whereof is imprisonment or fine exceeding one hundred dollars, shall be brought before any justice of the peace, or where in the trial of any cause under this act it shall appear that the offense for which the accused is upon his trial is one for which the punishment, as prescribed hereby, is more than one hundred dollars or imprisonment, or both, said justice shall proceed in such case in manner provided in section 203, of chap. XXX, of Revised Statutes; and if such fact shall appear as aforesaid upon the trial of the cause by a jury, said jury shall be discharged without rendering any verdict, and said justice of the peace shall admit said defendant or defendants to bail, or in default thereof, commit him or them to await trial the next term of the circuit court of the proper county, in same manner as provided by said section 203, of chap. XXX, Revised Statutes. In all cases where it shall appear, from the officer's return of any search warrant issued under the provisions of this act by any justice of the peace, that the liquor seized is of greater value than one hundred dollars, or if during or upon the hearing or trial of said complaint, as provided in the 13th section of this act, it shall appear to said justice on the evidence or (if the trial is by a jury) by the verdict of said jury that said liquor is of greater value than one hundred dollars, then in either or both cases it shall be the duty of said justice of the peace not to render judgment but forthwith to make a record of all the proceedings before him, (except the testimony of witnesses,) and certify the same under his hand and seal, and file the same in the clerk's office of the circuit court of the proper county; and said clerk shall, upon receiving and filing said transcript, immediately cause to be published in some newspaper in his county, (and if there be no newspaper in said county, then shall cause to be posted upon the door of the court house,) and also in either case to be left with or at the last usual place of abode of the person named in the said complaint as the owner or keeper of said liquor, if such person be a resident of this

state, a notice, summoning such person, and all others whom it may concern, to appear before the said circuit court, at the next term thereof, and show cause, if any they have, why said liquor should not be forfeited with the vessels containing it. Said circuit court shall hear and determine said question or forfeiture of said liquors, and shall proceed in the same manner provided in the 13th and 14th sections hereof: *Provided*, if two weeks shall not intervene between the day of publishing and serving said notice as aforesaid and the first day of the next term of the said circuit court, said cause shall be continued until the next term of the said circuit court. The term justice of the peace, as herein used, shall not be construed to include police magistrate.

Provide.

§ 34. If any person, by himself, clerk, servant or agent, shall sell, furnish or give away any intoxicating liquor, which shall be impure or adulterated, he shall forfeit and pay into the treasury of the town, city, or if the offense is committed without and beyond limits of any incorporated town or city, county, not exceeding one hundred dollars, and be imprisoned three months in the jail: *Provided*, no authorized agent appointed hereunder shall be subject to the liabilities of this section, unless such agent shall persist in selling or furnishing such impure or adulterated liquor, knowing the same to be such; prosecutions under this section may be, if the offense is committed within the limits of an incorporated city, brought before a police magistrate of said city, or by indictment in the circuit court of the proper county, whether committed within a city or not; and if the offense be committed without the limits of a city, then the case may be brought before any justice of the peace of the county, in manner provided in section 203, of chapter XXX, of the Revised Statutes.

Fine and imprisonment.

Provide.

§ 36. All laws and parts of laws inconsistent with this act shall be repealed when this act goes into operation: *Provided*, that all prosecutions which shall have been commenced at the time this act goes into operation shall be carried on to final judgment and execution as if this act had not have been passed: *Provided*, all laws authorizing the issuing or granting licenses to sell spiritous or intoxicating or mixed liquors shall be repealed from and after the date of the passage of this act.

Inconsistent acts repealed.

§ 37. No officer or other person shall be liable to any action or prosecution, civil or criminal, in behalf of any person or the people, for the making, issuing, trying or executing any complaint, warrant or other process under this act, or for instituting, prosecuting or trying any suit, prosecution or other proceeding hereunder: *Provided*, said officer or other person shall have acted in good faith.

Officers not liable to prosecution.

Provide.

Complaints of
married women.

§ 38. Any married woman who shall complain that liquor has been sold to her husband contrary to law, or any widow who shall complain that liquor has been sold to her son or sons contrary to law, may, in the stead or place of the two residents required by section twelve of this act, make the complaint mentioned in said section twelve, or any other section of this act, and may institute and carry on any prosecution provided by this act. Nothing in this act shall be construed to require that a search warrant should be issued or executed prior to a prosecution for a violation of any section of this act; but such prosecution or prosecutions may be instituted and carried on either with or without the issuing or executing of such warrant. All prosecutions for any violations of this act may be by indictment in the circuit court of the county where the offense may be committed, anything herein to the contrary notwithstanding; but a conviction before a justice of the peace or police magistrate shall be a bar to an indictment for the same offense, and *vice versa*.

When to take effect.

§ 39. The foregoing provisions of this act shall take effect on the first Monday of July next: *Provided*, if a majority of the ballots to be deposited as hereinafter provided shall be "against prohibition," then this act shall be of no force or effect whatever.

Election to be held.

§ 40. An election shall be held on the first Monday of June next, at the usual places of holding elections according to the laws of this state in such case made and provided, at which election persons entitled to vote under the constitution and laws of this state may express their judgment and choice in regard to this act, by depositing in the ballot box their ballots, with the words "for prohibition," or "against prohibition." Notices of said election shall be given, and said election shall be conducted according to the laws of this state regulating general elections. Returns of said election shall be made and canvassed as is now provided by law in elections for representatives in congress; and when the result of said election is so ascertained, the governor of the state shall issue his proclamation announcing said result. This section shall take effect from and after its passage.

Duty of secretary of state.

§ 41. The secretary of state shall cause to be published in pamphlet form 50,000 copies of this law immediately after the adjournment of the legislature, and shall forthwith send to each county clerk of the different counties five hundred copies thereof, to be distributed among the people; and it shall be the duty of the county clerks to cause said laws to be distributed throughout their counties respectively.

APPROVED February 12, 1855.



